

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Amendment of Parts 1 and 17 of the)	WT Docket No. 08-61
Commission's Rules Regarding Procedures for)	
Processing Antenna Structure Registration)	
Applications)	
)	

To: The Commission

COMMENTS OF AMERICAN TOWER CORPORATION

American Tower Corporation ("ATC"), a leading owner and operator of communications sites for the wireless and broadcast industries, including more than 20,000 towers, 2,000 managed rooftops, in-building and outdoor DAS (Distributed Antenna System) networks, by its attorneys, hereby submits these comments in response to the Federal Communications Commission's ("Commission" or "FCC") Public Notice¹ seeking comments on the Petition for Expedited Rulemaking ("Petition") submitted by CTIA-The Wireless Association, the National Association of Broadcasters, the National Association of Tower Erectors, and PCIA-The Wireless Infrastructure Association (collectively, the "Infrastructure Coalition"), in this proceeding. The Public Notice was issued in response to the decision of the United States Court of Appeals for the District of Columbia Circuit in *American Bird Conservancy, Inc. v. FCC*, 516 F.3d 1027 (2008) ("*American Bird Conservancy*"). In *American Bird Conservancy*, the Court

¹ "Wireless Telecommunications Bureau Seeks Comment on Petition for Expedited Rulemaking of CTIA – The Wireless Association, et al., for Amendment of Parts 1 and 17 of the Commission's Rules Regarding Public Notice Procedures for Processing Antenna Structure Registration Applications," *Public Notice*, DA 08-1078 (May 6, 2008).

found that the FCC failed to comply with the regulations of the Council on Environmental Quality and the FCC's own regulations requiring public involvement in implementing NEPA procedures, and remanded to the Commission, among other issues, the determination of "how it will provide notice of pending tower applications that will ensure meaningful public involvement in implementing NEPA procedures."²

The Infrastructure Coalition has proposed that the Commission commence a rulemaking based upon two tentative conclusions: "(1) the Commission's rules should be revised to incorporate a notice, comment and approval process for antenna structure registration ("ASR") applications modeled after the process for transfer and assignment applications; and (2) the Commission's rules should be revised to clarify that any objection on environmental ground filed against an ASR application must be filed as a Petition to Deny."³ The Infrastructure Coalition provided, as Appendix A to its Petition, its proposed rule changes.

ATC urges the Commission to issue a neutral notice of proposed rulemaking that: (i) seeks comment on, but does *not* tentatively conclude that the FCC should adopt, the Infrastructure Coalition's proposed rules; and (ii) solicits expansive viewpoints on other possible pathways it can follow to comply with *American Bird Conservancy*. Given the very limited opportunity for ATC and other parties to review those proposals to date, ATC believes that any rulemaking proceeding should be explicitly open-ended and solicitous of a wide variety of ways to address the Court's concerns. Particularly in light of the accelerated timeframe of this proceeding, ATC also believes it would be premature and inadvisable for the Commission to

² *American Bird Conservancy*, 516 F.3d at 1035.


³ In the Matter of Amendment of Parts 1 and 17 of the Commission's Rules Regarding Public Notice Procedures for Processing Antenna Structure Registration Applications, *Petition for Expedited Rulemaking*, WT Docket No. 08-61, at 1-2, filed May 2, 2008 ("*Petition*").

tentatively endorse the Infrastructure Coalition's proposal. Rather, under the circumstances presented, the Commission should simply propose the Infrastructure Coalition's proposed rule, seek broad comment on it, and encourage alternative proposals. The Commission should take the opportunity to inform itself with the widest variety of comments, with an eye toward developing the most efficient and appropriate overall resolution of the issues presented.

Respectfully submitted,

AMERICAN TOWER CORPORATION

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